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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/796,389	03/09/2004	Joachim Jung	F-8171	1898
28107	7590	02/24/2006	EXAMINER	
JORDAN AND HAMBURG LLP 122 EAST 42ND STREET SUITE 4000 NEW YORK, NY 10168				DEL SOLE, JOSEPH S
		ART UNIT		PAPER NUMBER
		1722		

DATE MAILED: 02/24/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	10/796,389	JUNG, JOACHIM
	Examiner Joseph S. Del Sole	Art Unit 1722

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on ____.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) Claim(s) ____ is/are allowed.
- 6) Claim(s) 1-6 and 8-10 is/are rejected.
- 7) Claim(s) 7 and 11 is/are objected to.
- 8) Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on ____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. ____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date: ____ . |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>7/04</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: ____ . |

DETAILED ACTION

Specification

1. The abstract of the disclosure is objected to because a) the amended abstract is currently two pages and should be amended to be a single page only. Correction is required. See MPEP § 608.01(b).

Claim Objections

2. Claim 9 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. Claim 9 fails to further limit the apparatus because the upstream induction heating apparatus is already claimed and the further limitations of claim 9 are merely method limitations that do not further structurally limit the apparatus.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 4-5 and 8 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 4 is vague and indefinite because "or a material that is as poorly conduction as possible" is unclear.

Claim 8 is vague and indefinite because “or a material that is as poorly conducting as possible” is unclear.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1, 3, 4, 6, 8, 9 and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by Salzmann et al (5,976,449).

Salzmann et al teach a system (Fig 10 having an extrusion apparatus (Fig 1, #s 21 and 22) with a crosshead (Fig 1, #20) and an induction heating system (that which heats to melting the material through the extruders), downstream of the cross head is a tube (Fig 1, #40) that constitutes a plurality of telescoping tube pieces adjacent the cross head (Fig 1, #40); the induction heating system (Fig 1, #41) downstream of the cross head being securely installed in or attached to the movable tube (Fig 1, #s 41' and 42') of the telescoping tube and together with the tube is movable; the movable tube of the telescoping tube along with the induction heating system is insertable into or can slide over the immobile tube (Fig 1, #45); the induction heating system extends over the entire length of the movable tube (Fig 1, #41); the movable and fixed tubes are produced from a poorly conduction, compression resistant and heat resistant material (Fig 1); the exterior diameter of the movable tube is smaller than the interior diameter of

the fixed tube (Fig 1); the fixed tube is provided with a bearing (Fig 1, that which supports the tube #45).

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

9. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Salzmann et al (5,976,449).

Salzmann et al teach the apparatus as discussed above.

Salzmann et al fails to teach the fixed tube being a carbon fiber compound.

The use of carbon fiber compound as the material of which the fixed tube is made, the selection being on the basis of suitability for the intended use, would be readily determined by routine experimentation in an effort to produce the optimum results absent a showing of unexpected results.

It would have been obvious to one having ordinary skill in the art at the time of the Applicant's invention to have modified the invention of Salzmann et al with carbon fiber as the used material because such a material may produce optimum results.

10. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Salzmann et al (5,976,449) in view of Sarracino (4,609,509).

Salzmann et al teach the apparatus as discussed above.

Salzmann et al fail to teach the fixed part running largely horizontally and suspended in a catenary curve.

Sarracino teaches a fixed tube (Fig 1, #3) running largely horizontally and suspended in a catenary curve for the purpose of transporting extruded material and containing fluid.

It would have been obvious to one having ordinary skill in the art at the time of the Applicant's invention to have modified the invention of Salzmann et al with the fixed tube suspended in a catenary curve as taught by Sarracino because such an arrangement would enable the use of additional fluid in the fixed tube.

Allowable Subject Matter

11. Claims 7 and 11 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

12. The following is a statement of reasons for the indication of allowable subject matter: the prior art of record fails to teach or suggest the movable tube of the

telescoping tube having an interior diameter greater than the exterior diameter of the fixed tube such that the moving tube may telescope over the fixed tube.

References of Interest

13. Miller et al (4,955,803), Caser (4,029,450), Ackley (3,571,851) and Veijanen (5,658,598) are cited of interest to show the state of the art.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph S. Del Sole whose telephone number is (571) 272-1130. The examiner can normally be reached on M-F 8:30 - 5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Duane Smith can be reached on (571) 272-1166. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Joseph S. Del Sole

2/2/06